

But we could not have won on the European front without a victory on the home front. Our American forces in Europe were the best trained, best fed, and best supplied liberating force ever constructed on the planet. They were the best ever abroad because we were the best ever at home.

Let there be no mistake. The twisted power and oppression of Nazi terror, hatred, and Holocaust were no match for the collective powers of freedom, of democracy, of individual initiative—the very essence of America. Today, we honor the 50th anniversary of that victory. We honor that victory every day so long as we continue to stand for these values at home and abroad.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Nevada.

Mr. REID. Mr. President, what is the issue now before the body?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 956, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Gorton Amendment No. 596, in the nature of a substitute.

Coverdell/Dole amendment No. 690 (to Amendment No. 596), in the nature of a substitute.

Mr. REID. Mr. President, in the State of Nevada, and particularly in Las Vegas, we have some great illusionists. The most famous are two men by the name of Siegfried and Roy. Every night, twice a night, they are sold out. Presently, they are at the Mirage Hotel and have been there for the last 4 or 5 years.

These illusionists, as great as they are, should be taking lessons from what is going on in the Congress today and during the past several weeks. We are talking about things that are really illusionary. For example, there has been a hue and cry that everything should be turned back to the States, that the States should make the decisions on their own destiny. All we hear is that we should leave them alone and let the States decide what is best for them.

In the so-called Contract With America, that is what they talk about—returning as much back to the States as they could. But here we are, Mr. President, now talking about tort reform and standing that issue on its head. Instead of returning everything back to

the States, we are saying in this area that we do not want the States to prevail, we want to have a national standard, which is really unusual to me to find out how people could reason that way.

For example, Mr. President, the State of Washington does not allow punitive damages. I think the State of Washington is wrong. But that is a decision they made with their State legislature and the Governor.

Would it not be wrong, Mr. President, if all States had to follow the same law as it relates to innkeepers, that we have in the State of Nevada. In the State of Nevada we have over—in Las Vegas alone—over 100,000 rooms, more rooms in Las Vegas than any other city in the world.

The State of Nevada basically is a resort State. Would it not be wrong for the laws of the State of Alabama as it relates to innkeepers to be the same as the State of Nevada? Of course, it would. We have special problems with tort law as it relates to innkeepers. Therefore, the State of Nevada should be left alone. We should be able to decide on our own what the law, as it relates to innkeepers, should be for the residents of the State of Nevada.

The legislation that is before this body is a bill that usurps and destabilizes well-established State law and principles as it relates to seller liability.

The legislature of the State of Nevada is meeting as we speak. They are talking about tort reform in Nevada as this debate is taking place.

I would much rather rely on what the State legislature does regarding tort reform for Nevada than what we decide back here should be the standard in Nevada.

The State of Nevada has carefully established rules as it relates to product liability. We have a strict liability standard for most products that are sold defectively. We are not unusual in that regard. There are 45 other States that have, through their courts or legislatures, adopted some form of strict liability as it relates to products.

Only a handful of States have chosen to remove product liability from this general rule. Should not that handful of States be left alone?

This bill would undo the law in at least two-thirds of the States. Contrary to nearly 200 years of State tort law, this bill would virtually immunize people who sold defective products.

Another troubling matter, Mr. President, is that this bill overreaches in its efforts to protect small businesses by placing a restrictive cap on punitive damages, or any "entity or organization with fewer than 25 full-time employees." This overlybroad language extends the protections of this bill well beyond the so-called small businesses. This cap, for example, would completely take away the right that we have in most States to allow punitive damages against drunk drivers, against child molesters, perpetrators of hate

crimes, and even by those who sell drugs to children.

I have, for more than a week, listened to this debate. Prior to coming here, I was a trial lawyer. I have tried scores of cases before juries—almost 100 jury trials. I believe that the jury system, Mr. President, is one of the things that we should be very proud of as a country.

We ought to reflect on the value of the Magna Carta. It was signed in a meadow of England, in a place called Runnymede. King John could not write his name. He had to put a mark for his name. The Magna Carta was the beginning of the English common law that we adopted when we became a country. One of the things that we brought over the water and now have and have had for over 200 years is a jury system, where wrongs that are perpetrated can be brought before a group of people and they can adjudge the wrong, if in fact, there were any.

My experience in the jury system, Mr. President, is that most of the time the juries arrive at the right decision. I would say that about 90 percent of the time, they arrive at the right decision. Not always for the right reason, but the right decision. I think it is something that other countries have looked on with awe and respect—our jury system.

Again, this bill would take away and undermine the jury system and places arbitrary caps on damages. The substitute arbitrarily caps punitive damages at two times other damages for all punitive damages cases. In order to have any deterrent impact, punitive damages should be based on conduct that is willful and wanton.

We have heard so much about the McDonald's case. But what was the McDonald's case? Let me explain, Mr. President, what the McDonald's case was. A grandmother took her grandchild to baseball practice. She wanted a cup of coffee. She drove to McDonald's. She got a cup of coffee. She put the cup of coffee between her legs, and as she removed the lid from the cup of coffee, it spilled. She had third-degree burns over her body. Her genitals were burned. She had to undergo numerous painful skin grafts.

A person might say, why should she be awarded for putting a cup of coffee between her legs? The fact of the matter is the reason the jury reacted in the way they did in this case is the fact that McDonald's had had 700 other burn cases where people had been burned with coffee. They had been warned and warned and warned that they served their coffee too hot—190 degrees is the temperature they served their coffee.

Mr. President, if a person buys a coffeemaker and plugs it in at home, and makes his or her own coffee, it comes out at about 135 degrees—something like that. McDonald's served their coffee at 180 to 190 degrees that if accidentally spilled could result in third-degree burns in a matter of 2 or 3 seconds.